

1 BARRY E. HINKLE, Bar No. 071223  
 TRACY L. MAINGUY, Bar No. 176928  
 2 CONCEPCIÓN E. LOZANO-BATISTA, Bar No. 227227  
 WEINBERG, ROGER & ROSENFELD  
 3 A Professional Corporation  
 1001 Marina Village Parkway, Suite 200  
 4 Alameda, California 94501  
 Telephone (510) 337-1001  
 5 Fax (510) 337-1023  
 E-Mail: bhinkle@unioncounsel.net  
 6 rperkins@unioncounsel.net  
 clozano@unioncounsel.net

7 Attorneys for Plaintiffs

8  
 9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

12 THE BOARD OF TRUSTEES, in their  
 capacities as Trustees of the LABORERS  
 13 HEALTH AND WELFARE TRUST FUND  
 FOR NORTHERN CALIFORNIA;  
 14 LABORERS VACATION-HOLIDAY TRUST  
 FUND FOR NORTHERN CALIFORNIA;  
 15 LABORERS PERNSION TRUST FUND FOR  
 NORTHERN CALIFORNIA; and LABORERS  
 16 TRAINING AND RETRAINING TRUST  
 FUND FOR NORTHERN CALIFORNIA,

17 Plaintiff,

18 v.

19  
 20 DAVID HALOPOFF, individually; DAVID  
 21 HALOPOFF, individually and doing business  
 as HALOPOFF & SONS, INC.; JOHN  
 22 HALOPOFF, Jr., individually; JOHN  
 HALOPOFF, Jr., individually and doing  
 23 business as HALOPOFF & SONS, INC.; JOHN  
 24 HALOPOFF, Sr., individually; JOHN  
 HALOPOFF, Sr., individually and doing  
 25 business as HALOPOFF & SONS, INC.;  
 HALOPOFF & SONS, INC.; and DOES 1  
 26 through 10,

No. 13-cv-05329 EDL

**STIPULATION REGARDING  
 LIABILITY OF CORPORATE  
 DEFENDANT HALOPOFF & SONS,  
 INC.; [PROPOSED] ORDER  
 THEREON**

Judge: Hon. Elizabeth D. Laporte

1 The parties hereto hereby stipulate and agree as follows:

2  
3 1. Plaintiffs, The Board of Trustees, in their capacities as Trustees of the Laborers Health  
4 and Welfare Trust Fund for Northern California; Laborers Vacation-Holiday Trust Fund for  
5 Northern California; Laborers Pension Trust Fund for Northern California; and Laborers Training  
6 and Retraining Trust Fund for Northern California (hereinafter “Trust Funds” or “Plaintiffs”),  
7 have brought the above-captioned action against Defendant Halopoff & Sons, Inc., (“Halopoff &  
8 Sons, Inc.”), a California Corporation, and Defendant John Halopoff, Sr., individually and doing  
9 business as Halopoff & Sons, Inc.. Plaintiffs seek payment of unpaid fringe benefit contributions,  
10 liquidated damages, and interest and all attorneys’ fees, costs, and other reasonable expenses  
11 incurred in connection with this action. The parties are desirous of preserving their resources and  
12 those of the Court by avoiding litigation as to undisputed issues. To that end, the parties hereby  
13 stipulate and agree:

14 2. At all relevant times, Halopoff & Sons, Inc. was, and is, signatory and bound to a  
15 written collective bargaining agreement with the Northern California District Council of Laborers  
16 (hereinafter “Union”), a labor organization within the meaning of section 301 of the Labor  
17 Management Relations Act (29 U.S.C. § 185). Defendants became subject to all the terms and  
18 conditions of the Laborers’ Master Agreement (hereinafter “Master Agreement”) by virtue of  
19 signing a Memorandum of Agreement (hereinafter “Memorandum Agreement”) with the union,  
20 which incorporated by reference the Master Agreement. The Master Agreement by its terms  
21 incorporates the various Trust Agreements establishing each of the Plaintiff Trust Funds.  
22 Hereinafter, the Memorandum Agreement, Master Agreement and Trust Agreements are referred  
23 to collectively as the “Agreements”.

24 3. Halopoff & Sons, Inc. is liable to the Trust Funds for the following amounts pursuant  
25 to the Agreements and Trust Agreements referenced in the Master Agreement: (1) unpaid  
26 contributions owed to the Trust Funds in the amount of \$273,681.37; (2) liquidated damages and  
27 interest of \$47,043.19; (3) the Trust Funds’ attorney fees incurred in relation to this action in the  
28 amount of \$22,691.25; and (4) costs in the amount of \$1,886.72 incurred by the Trust Funds in

1 bringing this action.

2 4. Halopoff & Sons, Inc. agrees that the Court shall include in any judgment entered in  
3 the above-captioned proceeding the liability referenced in paragraph three above.

4 5. The parties further acknowledge that by entering into this Stipulation Regarding  
5 Liability of Corporate Defendant Halopoff & Sons, Inc. (“Stipulation”), the Trust Funds in no  
6 way waive their right to conduct an audit for the period of time covered by this action or to seek  
7 payment of any additional amounts from Halopoff & Sons, Inc. if it is discovered that additional  
8 unpaid contributions, which are unknown to the Trust Funds at the time of entering into this  
9 stipulation, are due and owing.

10 4. Nothing in this Stipulation will alter Halopoff & Sons, Inc.’s ongoing obligations  
11 under the collective bargaining agreement, including the obligation to submit all fringe benefit  
12 contributions to the Trust Funds in a timely manner.

13 5. If the Trust Funds are required to consult or retain legal counsel with respect to the  
14 enforcement of this Judgment, there shall be added to Halopoff & Sons, Inc.’s obligation under a  
15 modification to this Stipulation reasonable attorneys’ fees, court costs and all other reasonable  
16 expenses incurred by the Trust Funds in connection with such suit or claim, including any and all  
17 appellate proceedings therein. The parties stipulate to this Court’s continuing jurisdiction, and  
18 agree that the Trust Funds may seek enforcement of this Stipulation in this Court or in any court  
19 of competent jurisdiction under section 664.6 of the California Code of Civil Procedure and  
20 related provisions of federal law.

21 6. Defendant further stipulates and agrees that this Agreement shall be binding on all  
22 successors, heirs, and assigns of Halopoff & Sons, Inc. regardless of whether it changes the name  
23 or style or address of the business.

24 7. The provisions set forth in this Stipulation are not in violation of any state or federal  
25 law. However, if any portion of this Stipulation is found to be in violation of any state or federal  
26 law, that portion shall be excised and the remaining portions of this Stipulation shall remain in  
27 full force and effect.

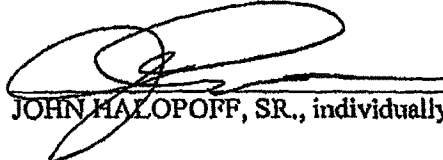
28 8. The parties acknowledge that they have had the opportunity to be represented by

1 independent legal counsel of their own choice throughout all of the negotiations that preceded the  
 2 execution of this Stipulation. The parties further acknowledge that they have had adequate  
 3 opportunity to perform whatever investigation or inquiry they may deem necessary in connection  
 4 with the subject matter of this Stipulation prior to its execution, and agree with the delivery and  
 5 acceptance of the considerations specified in this Stipulation.

6 9. This Stipulation may be executed in counterpart. The parties agree that signatures  
 7 transmitted electronically or via facsimile shall be considered and treated as an original signature.

8 10. The parties hereto mutually state that they have read the foregoing Stipulation and are  
 9 fully aware of its contents and legal facts. This Stipulation constitutes the entire agreement of the  
 10 parties and is entered into on the dates below indicated.

11 Dated: 3-13-15

  
 JOHN HALOPOFF, SR., individually

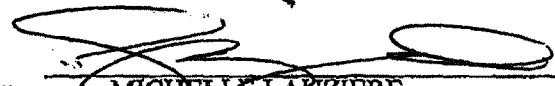
14 Dated: 3-13-15

HALOPOFF & SONS, INC.

  
 JOHN HALOPOFF, SR.

18 Dated: 3/17/15

LABORERS TRUST FUNDS

By:   
 MICHELLE LAUZIÈRE  
 Accounts Receivable Manager for Plaintiffs

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**~~PROPOSED~~ ORDER APPROVING STIPULATION**

Based upon the Stipulation Regarding Liability of Corporate Defendant Halopoff & Sons, Inc., the Court finds that it is undisputed that Halopoff & Sons, Inc. is liable to the Trust Funds for the following amounts pursuant to the Agreements and Trust Agreements referenced in the Master Agreement: (1) unpaid contributions owed to the Trust Funds in the amount of \$273,681.37; (2) liquidated damages and interest of \$47,043.19; (3) the Trust Funds' attorney fees incurred in relation to this action in the amount of \$22,691.25; and costs in the amount of \$1,886.72 incurred by the Trust Funds in bringing this action, as set forth in the Stipulation of the parties. The Court shall include the aforementioned liability in any judgment entered in the above-captioned matter, and retains jurisdiction to enforce the terms of the parties Stipulation Regarding Liability of Corporate Defendant Halopoff & Sons, Inc..

Dated: March 18, 2015

  
HONORABLE ELIZABETH D. LAFORTE  
UNITED STATES MAGISTRATE JUDGE

134724/802632